

1 WILLIAM J. GOINES (SBN: 61290)  
goinesw@gtlaw.com  
2 CINDY HAMILTON (SBN: 217951)  
hamiltonc@gtlaw.com  
3 LINDSAY E. HUTNER (SBN: 238998)  
hutnerl@gtlaw.com  
4 ALICE Y. CHU (SBN: 264990)  
chua@gtlaw.com  
5 GREENBERG TRAUIG, LLP  
1900 University Avenue, Fifth Floor  
6 East Palo Alto, California 94303  
Telephone: (650) 328-8500  
7 Facsimile: (650) 328-8508

8 Attorneys for Defendants Pinnacle Monterey LLC,  
Pinnacle Irwin LLC, American Management  
9 Services California Inc., American Management  
Services LLC d/b/a Pinnacle, and Stanley Harrelson  
10 in M112710; Cross-Complainants American  
Management Services California Inc. and American  
11 Management Services LLC (d/b/a Pinnacle) in  
M112710; Plaintiffs Pinnacle Monterey LLC and  
12 Pinnacle Irwin LLC in M115143

13  
14 **UNITED STATES DISTRICT COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA**  
16 **SAN JOSE DIVISION**

17 MONTEREY BAY MILITARY HOUSING,  
LLC, CLARK PINNACLE MONTEREY BAY  
18 LLC, CLARK MONTEREY PRESIDIO LLC,  
CALIFORNIA MILITARY COMMUNITIES  
19 LLC, CLARK PINNACLE CALIFORNIA  
MILITARY COMMUNITIES LLC and CLARK  
20 IRWIN, LLC,

21 Plaintiffs;

22 v.

23 PINNACLE MONTEREY LLC, PINNACLE  
IRWIN LLC, AMERICAN MANAGEMENT  
24 SERVICES CALIFORNIA INC., AMERICAN  
MANAGEMENT SERVICES LLC D/B/A  
25 PINNACLE, GOODMAN REAL ESTATE,  
INC., GOODMAN FINANCIAL SERVICES,  
26 INC., STANLEY HARRELSON and JOHN  
GOODMAN,

27 Defendants  
28

Case No.

**NOTICE OF REMOVAL OF ACTION  
UNDER 28 U.S.C. §1441(A) (FEDERAL  
QUESTION)**

*[Filed Concurrently with the Civil Cover  
Sheet, Defendants' Certification of Interested  
Entities or Persons, and Defendants'  
Disclosure Statement Pursuant to Federal  
Rule of Civil Procedure 7.1]*

Removed from the Superior Court of the  
State of California for the County of  
Monterey, Consolidated Case No. M112710  
/M115143

Removal Filed: September 2, 2014  
State Court Action Filed: June 15, 2011

1 AND RELATED CROSS-COMPLAINT:  
2

3 PINNACLE IRWIN LLC and PINNACLE  
4 MONTEREY LLC,

5 Plaintiffs,

6 v.

7 CLARK REALTY CAPITAL, L.L.C., CLARK  
8 PINNACLE MONTEREY BAY LLC, CLARK  
9 PINNACLE CALIFORNIA MILITARY  
10 COMMUNITIES LLC, and DOES 1-25,  
11 INCLUSIVE,

12 Defendants.  
13

14 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

15 PLEASE TAKE NOTICE THAT Pinnacle Monterey LLC, Pinnacle Irwin LLC, American  
16 Management Services California Inc., American Management Services LLC (d/b/a Pinnacle) and Stanley  
17 Harrelson hereby remove to this Court the state court action described below.

18 1. On June 15, 2011, Monterey Bay Military Housing, LLC and others filed a Complaint for  
19 Declaratory and Injunctive Relief in the Superior Court of the State of California for the County of  
20 Monterey against Pinnacle Monterey LLC and others, captioned *Monterey Bay Military Housing, LLC, et*  
21 *al. v. Pinnacle Monterey LLC, et al.*, case no. M112710 (the “Monterey Action”). A copy of the initial  
22 complaint and summons in action M112710 is attached as Ex. A.<sup>1</sup>

23 2. On June 15, 2011, Pinnacle Irwin LLC and Pinnacle Monterey LLC filed a Complaint in  
24 the Superior Court of the State of California for the County of Santa Clara against Clark Realty Capital,  
25 LLC, captioned *Pinnacle Irwin LLC et al. v. Clark Realty Capital L.L.C. et al.*, case no. 1-11-CV-203155  
26 (the “Santa Clara Action”). Copies of the initial complaint, summons, and amended proof of service of  
27 summons in action 1-11-CV-203155 are attached as Ex. B.

28 3. On September 16, 2011, Santa Clara County Superior Court issued an Order re: Motion to  
Transfer and Consolidate Actions. The Court denied Pinnacle Irwin and Pinnacle Monterey’s motion to

<sup>1</sup> For Exs. B, F-H and J-M, the exhibit includes the complaint or cross complaint as well as the corresponding answer. For Exs. A and I, no answer is included because the respondent filed a demurrer.

1 transfer the Monterey Action to Santa Clara County and consolidate it with the Santa Clara Action,  
2 stating that it was “hesitant to usurp the jurisdiction of the Monterey County Court.” The Court further  
3 ordered that the Santa Clara Action would be stayed “pending a ruling in Monterey County Court on a  
4 motion to transfer and consolidate.” A copy of that Order is attached as Ex. C.

5 4. On October 27, 2011, the Monterey County Superior Court issued an “Order for Transfer  
6 and Consolidation” ruling that the Santa Clara Action “shall be transferred for all purposes to Monterey  
7 County Superior Court, and consolidated with this matter.” A copy of that Order is attached as Ex. D.

8 5. On November 8, 2011, the Santa Clara Superior Court issued a Notice Re: Change of  
9 Venue transferring the Santa Clara Action to Monterey County Superior Court. On November 23, 2011,  
10 the Monterey County Superior Court issued a Notice re Change of Venue indicating that the Santa Clara  
11 Action had been filed in Monterey County Superior Court and assigned case no. M115143. On  
12 December 27, 2011, the Monterey County Superior Court issued an Out of Court Entry indicating that  
13 the Santa Clara Action had been transferred and consolidated with the Monterey County Action, and that  
14 M112710 would be designated the lead case. These notices are attached collectively as Ex. E.

15 6. Plaintiffs’ complaint in the Monterey Action (M112710) has been amended several times.  
16 Plaintiffs filed their Amended Complaint for Declaratory and Injunctive Relief on October 6, 2011 (Ex.  
17 F). Plaintiffs filed their Second Amended Complaint on April 25, 2012 (Ex. G). Plaintiffs filed their  
18 Third Amended Complaint on October 11, 2012 (Ex. H). This pleading added new defendants Stanley  
19 Harrelson, John Goodman and Goodman Real Estate, Inc.

20 7. Defendants in the Monterey Action (M112710) filed a Cross-Complaint against the  
21 Plaintiffs in that matter on March 23, 2012 (Ex. I). Defendants filed an Amended Cross-Complaint on  
22 July 3, 2012 (Ex. J). Defendants filed a Second Amended Cross Complaint on October 24, 2013 (Ex. K).

23 8. Plaintiffs’ complaint in the Santa Clara Action (1-11-CV-203155), after transfer to  
24 Monterey County Superior Court (M115143), has also been amended. Pinnacle Irwin and Pinnacle  
25 Monterey filed their First Amended Complaint on May 31, 2012 (Ex. L). This pleading added new  
26 defendants Clark Pinnacle Monterey Bay LLC and Clark Pinnacle California Military Communities LLC.  
27 Pinnacle Irwin and Pinnacle Monterey filed a Second Amended Complaint on October 24, 2013 (Ex. M).

28 9. On August 7, 2014, the Monterey County Superior Court issued an Order granting

1 Plaintiffs in the main action (M112710) leave to file a Fourth Amended Complaint that added a new  
2 cause of action under the Federal RICO statute (18 U.S.C. §§ 1961 et seq.) (Ex. N.). Defendants were  
3 served with the Fourth Amended Complaint on August 12, 2014, and then served with another copy of  
4 the Fourth Amended Complaint on August 18, 2014 (Ex. O). Prior to the amendment, no federal claims  
5 had been asserted in the lead action or the consolidated action.

6 10. Plaintiffs' federal RICO action is a civil action of which this Court has original  
7 jurisdiction under 28 U.S.C. § 1331, and is one which may be removed to this Court by defendants  
8 pursuant to the provisions of 28 U.S.C. § 1441(a) in that it arises under the federal RICO statute, 18  
9 U.S.C. §§ 1961, et seq. The RICO statute itself also creates jurisdiction over such claims. 18 U.S.C. §  
10 1964(c). Pursuant to 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over Plaintiffs'  
11 remaining causes of action in M112710, over Defendants' cross-complaint in M112710, and over  
12 Pinnacle Irwin and Pinnacle Monterey's complaint in M115143, because all the causes of actions in all  
13 consolidated pleadings are substantially related to the federal cause of action. Each of these causes of  
14 action arises from the same nucleus of operative facts as the federal RICO cause of action.

15 11. All other defendants who have been served with Summons and complaint have joined in  
16 this Notice of Removal, as evidenced by the Joinder of defendants Goodman Real Estate, Inc. and John  
17 Goodman. (Defendant Goodman Financial Services, Inc. ceased to exist prior to the filing of the original  
18 action, has never been properly served and has not appeared in the litigation.)

19 12. In accordance with 28 U.S.C. § 1446(a), a true and correct copy of all process, pleadings  
20 or orders served upon these defendants in the state court are submitted herewith. (Orders not cited above  
21 are attached in chronological order as Ex. P). Given the volume of materials filed with the court in this  
22 case, defendants have not submitted all briefing, discovery documents and other matters with this notice.  
23 If the Court would like those materials, defendants will provide them promptly.

#### 24 **INTRADISTRICT ASSIGNMENT**

25 13. The San Jose Division is the appropriate division of this Court since the case is being  
26 removed from the Superior Court of the State of California for the County of Monterey (Civil L.R. 3-  
27 2(e)).  
28

1 DATED: September 2, 2014

GREENBERG TRAURIG, LLP

3 By /s/ William J. Goines

4 William J. Goines

5 Thomas E. Dutton

6 Daniel G. Hildebrand

7 Lindsay E. Hutner

8 Alice Y. Chu

9 Attorneys for Defendants Pinnacle Monterey LLC,  
10 Pinnacle Irwin LLC, American Management Services  
11 California Inc., American Management Services LLC d/b/a  
12 Pinnacle, and Stanley Harrelson in M112710; Cross-  
13 Complainants American Management Services California  
14 Inc. and American Management Services LLC (d/b/a  
15 Pinnacle) in M112710; Plaintiffs Pinnacle Monterey LLC  
16 and Pinnacle Irwin LLC in M115143  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28